

**Plumbing Board  
Special Meeting Minutes  
August 26, 2008  
Isanti Room  
Department of Labor and Industry (DLI)  
443 Lafayette Road North, Saint Paul  
[DLI.CCLDBOARDS@State.MN.US](mailto:DLI.CCLDBOARDS@State.MN.US)**

**Members Present:**

Karl Abrahamson  
Rebecca L. Ames  
Jim Gander  
Kenneth Kammerer  
James Kittelson  
Allen J. Lamm  
John A. Parizek  
Jim Peterson (DLI Commissioner's designee)  
Paul Sullwold  
Ronald Thompson (MDH Commissioner's designee)

**Staff Present:**

Cathy Tran  
Wendy Legge  
Annette Trnka  
Chuck Olson  
John Schultz

**Visitors:**

Gary Thaden  
Matt Marciniak

**Members Absent:**

Lawrence Justin  
Michael McGowan  
Steve Christenson  
Rick Palmateer

**I. Call To Order**

The meeting was called to order by Parizek at 10:00 a.m.

- A. Announcements – The Chair made the announcement that the Commissioner had appointed Jim Peterson as his designee. The Chair has appointed Peterson to all Plumbing Board committees. The Chair also announced that Jim Kittelson has now been appointed to the Code Interpretation Committee.
- B. Introductions – John Schultz was introduced and he gave his background with The Department of Labor and Industry.

**II. Approval of Agenda**

Chair asked if there were any objections or changes to the Agenda and, hearing none, declared the Agenda approved. Legge pointed out that the amended Agenda didn't include any new items, just that the order of the items had been moved.

### **III. Approval of Previous Meeting Minutes**

- A. July 15, 2008 Board Meeting Minutes
  - i. The Chair pointed out that Gary Thaden had been listed on the Board Minutes twice. Hearing no objections or other changes, the Chair declared the Minutes approved.

### **IV. Regular Business**

- A. Approval of Expense Reports
  - i. The Chair stated that he had reviewed the expense reports and Per Diems and found them to be in order.

### **V. Special Business**

- A. Committee referrals
  - i. Medical gas certification – Gander stated that he would like to see the Board work with the Commissioner to get medical gas certification put in Statute and added to the authorities of the Plumbing Board using the NFPA 99C rules for installation.

Kammerer made a motion, seconded by Abrahamson, to work with the Commissioner to get the Medical Gas issue put into Statute and under the authority of the Plumbing Board.

During discussion, Gary Thaden stated the certification is only done by a private agency. Thaden stated it would depend on what the Statute says, whether a person would first have to pass the certification in order to get the license or if a person would get the license and then pass the certification. Gander stated that he felt that the Board's next step should be to work with the Commissioner in getting this issue into Statute and put under the authority of the Board. The vote was unanimous and the motion passed.

- ii. 4715.2161: Individuals who pass a certified RPZ Training Class should be allowed to repair and rebuild without a Plumbing License. (File PB0032/5-13-08) – Gander stated that the Committee had determined that repairing an RPZ is under the definition of plumbing, and a license is required to perform plumbing work in the State of Minnesota. Gander stated that the Licensing and Registration Committee had recommended to the Requestor that the Requestor contact the Legislators to encourage language change. The Licensing and Registration Committee recommends the Board deny and close this RFA. Gander made a motion, seconded by Sullwold to close out this RFA. Lamm stated that he would vote in favor of dropping the RFA, but he wanted to go on record as stating there is a huge problem

with getting testing done, especially in the out-state area. The vote was unanimous and the motion passed.

- iii. Continuing Education – Gander stated he would like the Board to recommend to the Commissioner to put required continuing education for Plumbers into statute through legislation and give authority over continuing education to the Board. Kammerer asked if that would include restricted licenses, and Gander stated that part of the issue had not yet been discussed. Schultz then discussed what Electrical Licensing requires for continuing education for electrical license holders. Ron Thompson stated that it does add a clerical burden to track continuing education for each licensee. Sullwold made a motion, seconded by Abrahamson, that the Board work with the Commissioner to put into statute through legislation that the Plumbing Board have authority to adopt rules on continuing education. The vote was unanimous and the motion passed.
- iv. Amendments to Plumbing Licensing Rules – Sullwold made a motion, seconded by Gander, to include the licensing rules in, along with the code revisions that are currently in the rulemaking process. The vote was unanimous and the motion passed.

#### B. Separation of Rules

- i. DLI proposed code provision regarding equipment drain and potable water treatment. Legge stated that the Plumbing Board has specific authority over plumbing rules and outlined the rules that the Board has authority over. She stated that because there is separation of code and licensing, she recommended that the code and licensing rules be put into separate chapters. She also recommended that the Department of Labor and Industry's rules be separated from the rules that the Board has authority over, putting them into a separate chapter. She stated that 4715.2800, 4715.2810, 4715.2830, 4715.2880, and 4715.2890 are all administrative rules and the Department of Labor and Industry takes the position that those rules are under the authority of the Department. 4715.3130 and rules on water conditioning and treatment are also Department rules, as the water conditioning and treatment are in statute that they are under the jurisdiction of the Commissioner.

Legge stated that two options would be to 1) move these rules into a separate chapter or; 2) to remove those rules from this rulemaking session and not move these rules into a separate chapter. Gander states that by definition, plumbing systems include potable water treatment, which is water conditioning, so he believes this would be under the Board's authority. Legge stated that she represents the Department of Labor and Industry on this issue, and the Department's position is that there is a specific statute on water conditioning and that would take precedence over a general statute, and the statute that Gander read is a general statute. Legge stated that the statute on water conditioning

installation and water conditioning license (Minnesota Statute 326.60 – or the new numbering of 326B.55, Subdivision 3) and also the water conditioning standards on water conditioning installation (Minnesota Statute 327.57 which in the new Statute will be 326B.52, Subdivision 1) is clearly under the Commissioner’s authority.

Legge suggested working with the Commissioner to change the statute to give authority to the Board over water conditioning and to broaden it to include more than single family residences. Gander stated he saw no harm in separating the rules. Legge stated that statute language that needs cleaning up would be 1) the language on water conditioning of in a town of “5000 or more;” 2) transferring licensing and Board rules; and 3) provisions of minimum standards (making it broader than just a single family residence.) Thaden stated that his suggestion would be to bring in people in the water conditioning industry to discuss the issue of water conditioning before taking any action. Thaden added that moving the rules themselves doesn’t change the Board’s authority over those rules. Legge stated that one option would be to take out 4715.2800 out of the rulemaking and move forward with the rest, with the option of getting independent counsel on whose authority 4715.2800 is under.

Kammerer made a motion, seconded by Lamm to not separate any rules at this time. The vote was Kammerer and Lamm voted Aye. Opposed were Peterson, Parizek, Gander, Ames, Abrahamson and Kittelson. Sullwold didn’t vote as he had stepped out of the room. The motion failed. Sullwold then re-joined the meeting.

Ames made a motion, seconded by Gander, to separate the licensing rules (4715.3140-4715.3170) to a separate Chapter, and taking no action on separating 4715.2800, 4715.2810, 4715.2830, 4715.2880, 4715.2890, 4715.3130 and 4715.5000-4715.6000. The vote was Peterson, Lamm, Parizek, Gander, Ames, Abrahamson, Sullwold and Kittelson. Opposed was Kammerer. The majority ruled and the motion passed.

- C. Amendments to Plumbing Licensing Rules – Gander reviewed what the Licensing and Registration Committee had discussed and the proposed changes to licensing rules. Legge went through the proposed changes to the license language.

The meeting broke at 11:26 and reconvened at 11:37.

Discussion was held on the proposed draft license language. Sullwold made a motion, seconded by Gander, to include the licensing rules, along with the

code revisions that are currently in the rulemaking process. The vote was unanimous and the motion passed.

The meeting broke for lunch at 12:14 p.m. The meeting resumed at 1:13 p.m.

- D. Code amendment update – Cathy Tran went through the Department’s proposed language, Definitions 4715.0100 and 4715.xxx Water Treatment Equipment, which the Department of Labor and Industry is requesting be added to the Plumbing Board’s current rulemaking language and discussion was held. Parizek stated he thought because of time constraints to defer this issue until the next rulemaking session and have committee review this draft. Kammerer made a motion, seconded by Lamm to defer this draft language for the next rulemaking session and refer the issue to the Product and Code Review Committee. The vote was Parizek, Gander, Ames, Abrahamson, Sullwold, Kittelson, Kammerer and Lamm. Opposed was Peterson. The majority ruled and the motion passed.
- E. Code amendment update – Legge went through the most current draft dated 8/21/08 of the rulemaking language, which included the changes decided upon at the last Committee & Board meetings. Discussion was then held on 4715.2800. The Board has the option to 1) decide to agree this rule is under the Department of Labor and Industry’s authority; or 2) the Board could decide to get independent counsel advising them on whose authority this would be under; or 3) the Board could decide it is the Board’s authority and move forward leaving this section in, in which case Legge could no longer represent the Board in this rulemaking. Lamm made a motion, seconded by Ames, to accept the changes on the draft of rulemaking language dated 8/21/08. Legge stated that in order for the motion to pass, all members present would need to agree, as a 2/3 Board majority was needed to make that motion pass. The vote was unanimous and the motion passed.
- F. Other – There was no discussion under this section.

## **VI. Open Forum**

There were no requests for Open Forum.

## **VII. Board Discussion**

Sullwold made a motion, seconded by Lamm, to refer the issues of jurisdiction on water conditioning; additional rules recommended for water conditioning; and additional rules recommended for separation to the Licensing and Registration Committee. The vote was unanimous and the motion passed.

## **VIII. Announcements**

### **A) Next Regularly Scheduled Meetings:**

- i. October 21, 2008, 9:30 a.m. – Minnesota Room, DLI
- ii. November 18, 2008, 9:30 a.m. – Minnesota Room, DLI (If Board decides to meet.)

## **XI. Adjournment**

Gander made a motion, seconded by Kittelson, to adjourn. The vote was unanimous, and the motion passed. The meeting adjourned at 2:22 p.m.

Respectfully Submitted,

*Jim Gander*

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